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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,894	03/24/2004	Gregory Duane Ellis	73591.000004	7403
21967 7590 02/04/2009 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109				
EXAMINER				
FOSSELMAN, JOEL W				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/808,894

Applicant(s)

ELLIS, GREGORY DUANE

Examiner

JOEL FOSSELMAN

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/20/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 60-105 is/are pending in the application.
- 4a) Of the above claim(s) 13-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 60-105 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The amendment filed on 11/20/2008 in response to the previous Office Action (08/06/2008) is acknowledged and has been entered. Claims 1-12,60-105 are currently pending. Claims 13-59 were previously withdrawn.

Response to Arguments

Applicant's arguments with respect to claims 1-12,60-105 have been considered but are moot in view of new grounds of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4-9,11,12,64,65,67-72,74,75,80,81,83-87,92,93,95-99,105 are rejected under 35 U.S.C. 102(b) as being anticipated by Liwerant et al. (US 2002/0056123 A1, hereinafter Liwerant).

Re claim 1, Liwerant discloses, an Internet-based recording method for recording audio and video material over an Internet connection established between a user front

end and a host back end (figures 1-6), the method comprising: delivering user interface code over the Internet for use in an Internet browser, wherein the user interface code is executed through the Internet browser at the user front end and initiates the streaming of audio and video material from a recording device on the user front end to the host back end over the Internet (par [0129], "The VideoShare Producer 20 software notifies the host computer 60 that the user wishes to place his or her video into a repository maintained by the host computer 60...in response to communication the upload is performed automatically using a direct TCP/IP socket connection over a specific connection port of the user's computer known as port 80, user interface code is inherently used to notify the host computer that data is to be streamed to the server or host computer); recording the audio and video material on the host back end (par [0048]); and providing access to the recorded audio and video material (par [0048], The identification tag, or another identifier of the video, such as the thumbnail and/or the URL... The operator of sender A's computer 10 can then use the identifier to request that the video be streamed to sender A's computer 10 for viewing, and/or the operator of sender A's computer 10 can provide the identifier to another viewer, for example, by way of a Web page, or by an e-mail).

Claim 2 is rejected as applied to claim 1 (The operator of sender A's computer 10 can then use the identifier to request that the video be streamed to sender A's computer 10 for viewing).

Re claim 4, Liwerant discloses the limitations of claim 1 including in response to input from the user front end, linking the recorded audio and video material at the host

back end to a pointer that is placed at an additional location, wherein activating the pointer provides access to the recorded audio and video material at the host back end (par [0072]).

Re claim 5, Liwerant discloses the limitations of claim 4 including wherein the pointer is a hyperlink (par [0072]).

Re claim 6, Liwerant discloses the limitations of claim 1 including producing hypertext markup language code associated with the recorded audio and video material to facilitate accessing the recorded audio and video material (par [0073]).

Re claim 7, Liwerant discloses the limitations of claim 1 including enabling access to the recorded audio and video material at the host back end from at least one additional location by copying the hypertext markup language code produced at the host back end and pasting the hypertext markup language code to the at least one additional location (par [0158]).

Re claim 8, Liwerant discloses the limitations of claim 7 including wherein the at least one additional location is an auction site (par [0065]).

Re claim 9, Liwerant discloses the limitations of claim 1 including enabling recorded audio and video material on the host back end to be edited from the user front end (see figure 9, par [0162], a user may inherently alter the speed of playback , i.e. pressing the fast-forward or reverse button in Windows Media Player, altering the speed of playback is a form of editing and is performed after the video is stored on the host side).

Claim 11 is rejected as applied to claim 1 (pars [0012]).

Claim 12 is rejected as applied to claim 1 (pars [0052]-[0053]).

Claims 64,65,67-72,74,75 are considered apparatus claims which correspond to method claims 1,2,4-9,11,12, respectively. Please see the discussion above for those claims. The system for performing the method steps as claimed would have been anticipated by the video sharing system of Liwerant.

Claims 80,81,83-87, recite essentially the same scope as method claims 1,2,4,5,7-9, respectively. However, Instead of delivering user interface code, the code is now received, which is an essential step in the aforementioned method claims. Claims 80,81,83-87 are rejected for the reasons stated for claims 1,2,4,5,7-9.

Claims 92,93,95-99 are considered apparatus claims which correspond to method claims 1,2,4-6,8,9, respectively. Please see the discussion above for those claims. The system for performing the method steps as claimed would have been anticipated by the video sharing system of Liwerant.

Claim 105 is rejected as applied to the above claims. Additionally, Liwerant discloses that the computer system 10 can include a computer which can be a handheld device such as a PDA (par [0077]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3,10,60-63,66,73,76-79,82,88-91,94,100-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liwerant.

Claim 3 pertains to enabling recorded audio and video material on the host back end to be re-recorded from the user front end. Although, Liwerant fails to explicitly disclose that the recorded material on the back end is re-recordable from the user front end, Official Notice is taken to note that replacing a file with a another file, typically newer, is notoriously well known and used in the related art and would have been obvious to utilize for the benefit of conserving storage space.

Re claim 10, Liwerant fails to explicitly disclose that the audio data stored at the host back end may be re-dubbed in response to a user input from the front end. Official Notice is taken to note that re-dubbing audio signals based on a user input is notoriously well known and used in the related art and would have been obvious to utilize for the benefit of synchronizing the audio with a corresponding video signal.

Claim 60 is rejected as applied to claim 1 (figures 7 and 8, reference characters 700 and 800, pars [0151]-[0152]). The progress dialog screen indicating that the files are being processed is a display which is construed by examiner to be a user interface. Additionally, Official Notice is taken to note that generating a user interface in an Internet browser based on the user interface code is notoriously well known and used in the related art and would have been obvious to utilize for the benefit of providing a means for navigation within the browser or for providing a means for viewing status of a pending file transfer.

Claim 61 is rejected as applied to claim 60 (figure 7, pars [0151],[0100]). The phrase "video material" is broadly interpreted to mean any material relating to the video, which in the immediate case is the status of the process of video, displayed within the dialog screen.

Claims 62 and 63 recite essentially the same scope as the aforementioned claims and are rejected for the reasons stated above.

Claims 76-79 recite essentially the same scope as claims 60-63 and are rejected for the reasons stated above.

Claims 66,73 are considered apparatus claims which correspond to method claims 3,10, respectively. Please see the discussion above for those claims. The system for performing the method steps as claimed would have been implied and expected by the video sharing system of Liwerant.

Claims 82,88-91, recite essentially the same scope as method claims 3,60-63, respectively. However, Instead of delivering user interface code, the code is now received, which is an essential step in the aforementioned method claims. Claims 82,88-91 are rejected for the reasons stated for claims 3,60-63.

Claims 94,100-103 are considered apparatus claims which correspond to method claims 3,60,63, respectively. Please see the discussion above for those claims. The system for performing the method steps as claimed would have been implied and expected by the video sharing system of Liwerant.

Claim 104 is rejected as applied to the above claims. Although Liwerant fails to explicitly disclose using a Wi-Fi connection, Official Notice is taken to note that a Wi-Fi

connection to access the Internet is notoriously well known and used in the related art and would have been obvious to utilize for the benefit of providing a means for connecting to the Internet, and further connecting to a browser at Wi-Fi locations, in order to easily access and upload video data.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOEL FOSSELMAN whose telephone number is (571)270-3728. The examiner can normally be reached on 9:00 AM - 6:00 PM M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/808,894
Art Unit: 2622

Page 9

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Examiner, Art Unit 2622

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February 2, 2009